

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

**ROTHSCHILD BROADCAST
DISTRIBUTION SYSTEMS, LLC,**

Plaintiff,

v.

FUBOTV, INC.,

Defendant.

CIVIL ACTION NO. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Rothschild Broadcast Distribution Systems, LLC (“Plaintiff” or “Rothschild Broadcast Distribution Systems”) files this complaint against FuboTV, Inc. (“FuboTV”) for infringement of U.S. Patent No. 8,856,221 (hereinafter the “’221 Patent”) and alleges as follows:

PARTIES

1. Plaintiff is a Texas limited liability company with an office at 1801 NE 123 Street, Suite 314, Miami, FL 33181.
2. On information and belief, Defendant is a Delaware corporation, with its principal office located in New York, NY 10001. On information and belief, Defendant may be served with process through its registered agent, National Registered Agents, Inc., at 160 Greentree Dr., Suite 101, Dover, DE 19904.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, 35 U.S.C. § 271 et seq. Plaintiff is seeking damages, as well as attorney fees and costs.

4. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents).

5. On information and belief, this Court has personal jurisdiction over Defendant because Defendant has committed, and continues to commit, acts of infringement in this District, has conducted business in this District, and/or has engaged in continuous and systematic activities in this District.

6. Upon information and belief, Defendant's instrumentalities that are alleged herein to infringe were and continue to be used, imported, offered for sale, and/or sold in the District.

7. Venue is proper in this District under 28 U.S.C. §1400(b) because Defendant is deemed to be a resident in this District.

BACKGROUND

8. On October 7, 2014, the United States Patent and Trademark Office ("USPTO") duly and legally issued the '221 Patent, entitled "System and Method for Storing Broadcast Content in a Cloud-Based Computing Environment" after the USPTO completed a full and fair examination. The '221 Patent is attached as Exhibit A.

9. Rothschild Broadcast Distribution Systems is currently the owner of the '221 Patent.

10. Rothschild Broadcast Distribution Systems possesses all rights of recovery under the '221 Patent, including the exclusive right to recover for past, present and future infringement.

11. The '221 Patent contains thirteen claims including two independent claims (claims 1 and 7) and eleven dependent claims.

COUNT ONE **(Infringement of United States Patent No. 8,856,221)**

12. Plaintiff refers to and incorporates the allegations in Paragraphs 1 - 11, the same as if set forth herein.

13. This cause of action arises under the patent laws of the United States and, in particular under 35 U.S.C. §§ 271, *et seq.*

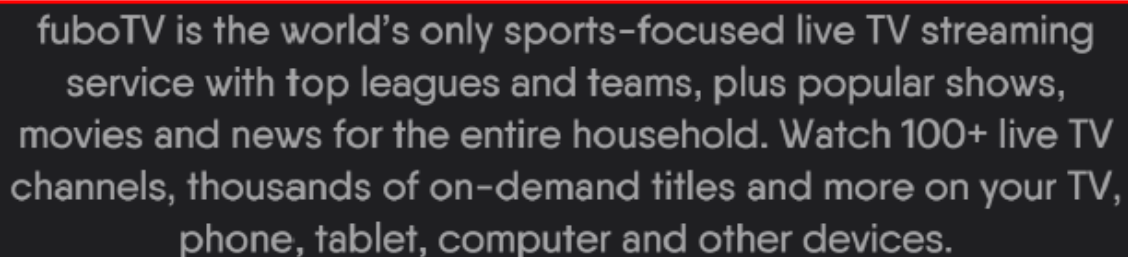
14. Defendant has knowledge of its infringement of the '221 Patent, at least as of the service of the present complaint.

15. Upon information and belief, Defendant has infringed and continues to infringe one or more claims, including at least Claim 7, of the '221 Patent by making, using, importing, selling, and/or offering for media content storage and delivery systems and services covered by one or more claims of the '221 Patent.

16. Accordingly, Defendant has infringed, and continues to infringe, the '221 Patent in violation of 35 U.S.C. § 271.

17. Defendant sells, offers to sell, and/or uses media content storage and delivery systems and services, including, without limitation, the fuboTV streaming platform, and any similar products ("Product"), which infringes at least Claim 7 of the '221 Patent.

18. The Product practices a method of storing (e.g., cloud storage) media content (e.g. and recorded video) and delivering requested media content to a consumer device. Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.

A screenshot of a promotional message for fuboTV. The text is white and centered on a dark gray background. The entire screenshot is enclosed within a red rectangular border.

fuboTV is the world's only sports-focused live TV streaming service with top leagues and teams, plus popular shows, movies and news for the entire household. Watch 100+ live TV channels, thousands of on-demand titles and more on your TV, phone, tablet, computer and other devices.

Source: <https://www.fubo.tv/welcome>

Can I record games & shows?

Yes, every fuboTV account includes 30 hours of Cloud DVR space at no extra charge. You can hit record from one device, start watching on another, and finish in another.

Can I stream shows on my TV?

Yes. The easiest way to watch fuboTV on your TV is with a Roku, Apple TV, Amazon Fire TV or Chromecast. Simply install the fuboTV app on your device to stream on your TV.

Source: <https://www.fubo.tv/welcome>

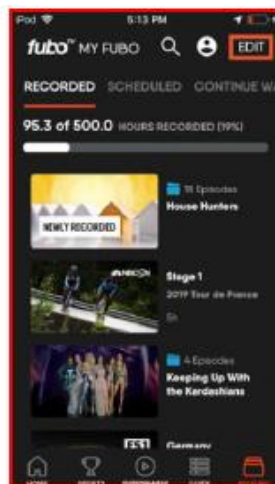
Which programs can I record?

You can record any live programs on most channels either before or during the program's airing. Your Cloud DVR will always record the entire program, even if you don't tune in until halftime.

Where can I watch my Cloud DVR recordings?

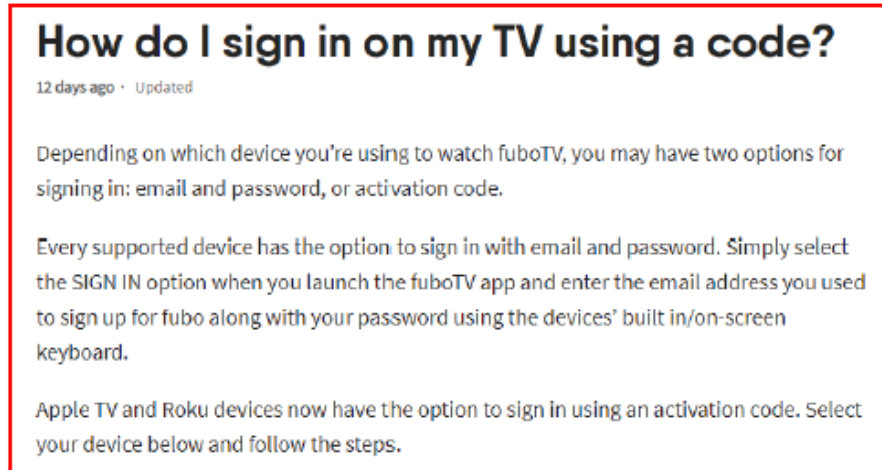
We keep all your recordings safe in our cloud storage. That way it's available to you on any fuboTV compatible device, anywhere you can watch fuboTV. If the original broadcast was subject to device restrictions, those restrictions still exist for the recording.

Source: <https://support.fubo.tv/hc/en-us/articles/115002082007-How-does-Cloud-DVR-on-fuboTV-work->



Source: <https://support.fubo.tv/hc/en-us/articles/360030793352-How-do-I-delete-recordings-from-Cloud-DVR-on-my-iPhone-iPad-iPod-Touch->

19. The Product necessarily includes a receiver configured to receive a request message including data indicating requested media content (e.g., the Product must have infrastructure to receive a request to store recorded media content or to stream recorded media content on a smartphone; additionally, the request message must contain data that identifies the content to be stored or streamed) and a consumer device identifier corresponding to a consumer device (e.g., the user credentials are used to access the contents of the Product). Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.



Source: <https://support.fubo.tv/hc/en-us/articles/360035300072-How-do-I-sign-in-on-my-TV-using-a-code->

A screenshot of a welcome message for FuboTV. The text is white on a dark background and describes FuboTV as the world's only sports-focused live TV streaming service, offering top leagues, teams, popular shows, movies, and news for the entire household. It mentions watching 100+ live TV channels, thousands of on-demand titles, and more on various devices. The text is enclosed in a red rectangular border.

Source: <https://www.fubo.tv/welcome>

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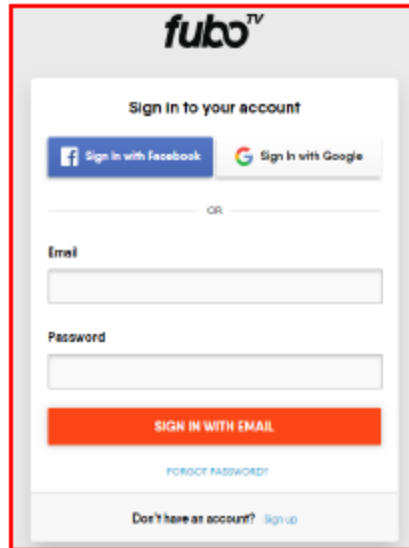
Source: <https://support.fubo.tv/hc/en-us/articles/115002082007-How-does-Cloud-DVR-on-fuboTV-work->

What TV Everywhere apps can I use my fuboTV login with?

2 months ago · Updated

With an active fuboTV subscription, you can select fuboTV as your service provider and login with your fuboTV account to access TVE apps and websites for the following networks. The TVE app channel must be one included in your active subscription.

Source: <https://support.fubo.tv/hc/en-us/articles/115000200932-What-TV-Everywhere-apps-can-I-use-my-fuboTV-login-with->

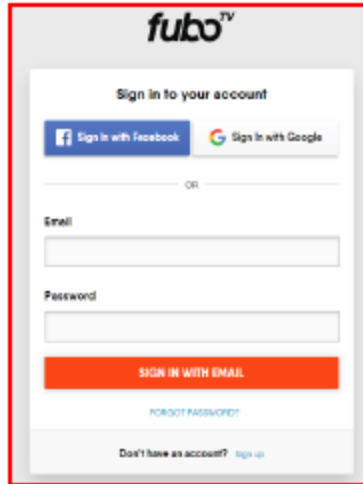


Source: <https://www.fubo.tv/signin>

20. The at least one server necessarily determines whether the consumer device identifier corresponds to the registered consumer device (e.g., a user must be a registered user to access the Product's services). Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.



Source: <https://support.fubo.tv/hc/en-us/articles/360035300072-How-do-I-sign-in-on-my-TV-using-a-code->



Source: <https://www.fubo.tv/signin>

21. The Product provides for both media downloads and/or storage, and media streaming. After a successful login, the Product necessarily determines whether the request received from a customer is a request for storage (e.g., recording or storing content) or content (e.g., streaming of media content). Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.

fuboTV is the world's only sports-focused live TV streaming service with top leagues and teams, plus popular shows, movies and news for the entire household. Watch 100+ live TV channels, thousands of on-demand titles and more on your TV, phone, tablet, computer and other devices.

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Source: <https://support.fubo.tv/hc/en-us/articles/115002082007-How-does-Cloud-DVR-on-fuboTV-work->

22. The Product verifies that media content identified in the media data of the storage request message (e.g., request to record content) is available for storage in order to prevent data errors that would result from attempting to store content that is not available for storage. The Product must verify that the media content (e.g. specific recording) identified in the media data of the storage request message is available for storage in order to prevent data errors that would result from attempting to store content that is not available for storage (e.g., the product must verify a user's ability to store video is limited to a certain amount of memory usage based upon their subscription; thus media content may not be available for storage if a user is already above their

memory limit or if the user has not subscribed to any service). Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.

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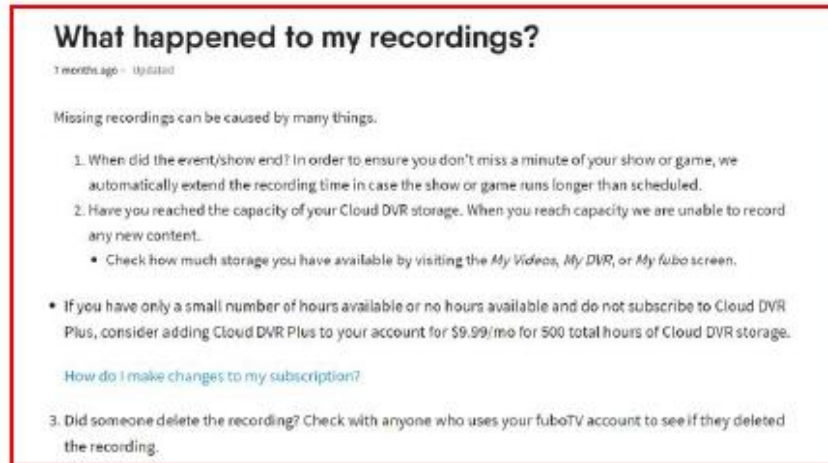
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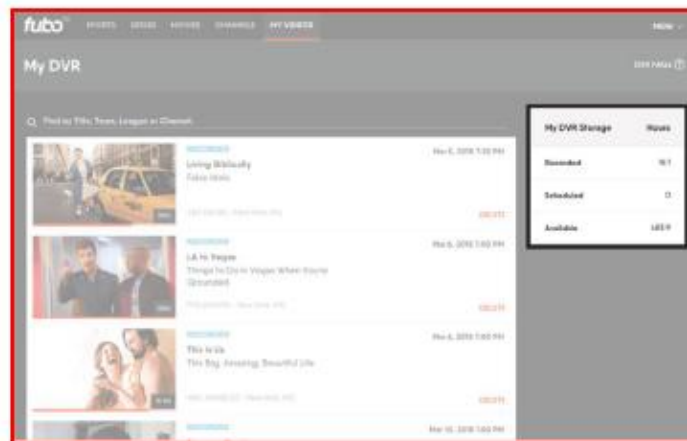
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Source: <https://support.fubo.tv/hc/en-us/articles/360002483452-What-happened-to-my-recordings->



Source: <https://support.fubo.tv/hc/en-us/articles/360002483452-What-happened-to-my-recordings->

23. If a customer requests content (e.g., live streaming of media content), then a processor within the Product necessarily initiates delivery of the content to the customer's device. The server will initiate delivery of the requested media content to the consumer device (e.g., stream live camera feed to a smartphone or tablet or desktop computer) if the request message is a content request message (e.g., request for live streaming). Certain aspects of these elements are illustrated in the screen shots below and/or in screen shots provided in connection with other allegations herein.

fuboTV is the world's only sports-focused live TV streaming service with top leagues and teams, plus popular shows, movies and news for the entire household. Watch 100+ live TV channels, thousands of on-demand titles and more on your TV, phone, tablet, computer and other devices.

Source: <https://www.fubo.tv/welcome>

What to watch

The perfect mix of sports and entertainment. Live and on demand.

Source: <https://www.fubo.tv/welcome>

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Source: <https://www.fubo.tv/welcome>

24. The media data time data that indicates a length of time to store the requested media content (e.g. a user is allowed to store media content for maximum time period as based upon their subscription level). Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.

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Source: <https://www.fubo.tv/welcome>

How many hours can I record?

That depends on which Cloud DVR plan you have.

	How many hours can I record?	Price	How long can I save my recording for?
Cloud DVR	30 hours	Included in every basic package	Indefinitely (Or until deleted)
Cloud DVR Plus	500 hours	\$9.99/month	Indefinitely (Or until deleted)

Source: <https://support.fubo.tv/hc/en-us/articles/115002082007-How-does-Cloud-DVR-on-fuboTV-work->

25. The server must first determine whether the requested media content exists prior to initiating delivery in order to prevent data errors that would result from attempting to transmit media content that does not exist (e.g. the product must verify that a particular requested data is stored in the cloud). Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.

179 Channels available in your area

Based on your current location

Source: <https://www.fubo.tv/welcome>

Compatibility

fuboTV content is currently available in the United States. Users can access live content via Desktop, iPhone, iPad, Android Phone & Tablet, Roku, Amazon Fire TV and Apple TV (Gen 4). fuboTV has DVR capability and content is available in English, Spanish and Portuguese.

*Regional Sport Networks and Local Networks are only available in their respective markets.

Source: <https://www.fubo.tv/lp/affiliate/>

Are leagues like the NFL, NBA, MLB and others available?

Absolutely! Not only does fuboTV have the NFL, NBA and MLB, but you can also watch NHL, NASCAR, golf, boxing, MMA, tennis, college sports and more. Plus full coverage of specials including the Super Bowl, World Series, Stanley Cup Playoffs, Olympics and Triple Crown.

Source: <https://www.fubo.tv/lp/affiliate/>

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Source: <https://www.fubo.tv/welcome>

26. After the processor determines whether the requested media content is available, it determines whether there are restrictions associated with the requested media content (e.g., subscription level etc.). Certain aspects of these elements are illustrated in the screenshots provided in connection with other allegations herein.

27. Defendant's actions complained of herein will continue unless Defendant is enjoined by this Court.

28. Defendant's actions complained of herein is causing irreparable harm and monetary damage to Plaintiff and will continue to do so unless and until Defendant is enjoined and restrained by this Court.

29. The '221 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

30. A copy of the '221 Patent, titled "System and Method for Storing Broadcast Content in a Cloud-based Computing Environment," is attached hereto as Exhibit A.

31. By engaging in the conduct described herein, Defendant has injured Plaintiff and is liable for infringement of the '221 Patent, pursuant to 35 U.S.C. § 271.

32. Defendant has committed these acts of literal infringement, or infringement under the doctrine of equivalents of the '221 Patent, without license or authorization.

33. As a result of Defendant's infringement of the '221 Patent, injured Plaintiff has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Defendant's past infringement, together with interests and costs.

34. Plaintiff is in compliance with 35 U.S.C. § 287.

35. As such, Plaintiff is entitled to compensation for any continuing and/or future infringement of the '221 Patent up until the date that Defendant ceases its infringing activities.

DEMAND FOR JURY TRIAL

36. Rothschild Broadcast Distribution Systems, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff asks the Court to:

(a) Enter judgment for Plaintiff on this Complaint on all cases of action asserted herein;

- (b) Enter an Order enjoining Defendant, its agents, officers, servants, employees, attorneys, and all persons in active concert or participation with Defendant who receives notice of the order from further infringement of United States Patent No. 8,856,221 (or, in the alternative, awarding Plaintiff running royalty from the time judgment going forward);
- (c) Award Plaintiff damages resulting from Defendants infringement in accordance with 35 U.S.C. § 284;
- (d) Award Plaintiff such further relief to which the Court finds Plaintiff entitled under law or equity.

Dated: March 19, 2020

Respectfully submitted,

/s/ Jimmy Chong

JIMMY CHONG, ESQ. (#4839)

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**ATTORNEYS FOR PLAINTIFF
ROTHSCHILD BROADCAST
DISTRIBUTION SYSTEMS, LLC**